

### **IN THE SPECIFICATION:**

Please add the following paragraph before “BACKGROUND” on page 1:

A portion or all of the disclosure of this patent document contains material which is subject to copyright protection. The copyright owner has no objection to the facsimile reproduction by anyone of the patent document or the patent disclosure, as it appears in the Patent and Trademark office patent file or records, but otherwise reserves all copyright rights whatsoever.

Please amend the paragraph beginning on page 1, line 8, as shown:

Traditionally, patent protection has provided the economic and moral impetus for technological improvements in all fields. An inventor is motivated to absorb the substantial financial, time, and personal costs of identifying problems with current technologies and inventing solutions to those problems when he is assured the right to exploit that invention by excluding others from making, using, selling, offering to sell, and importing his invention. 35 U.S.C. §271. Where patent protection is not available or is not easily obtained or enforced, such as in the typically statist welfare countries of Central and South America and communist countries such as China, technological progress is stunted by at least two causes: a) inventors employed by a company have little motivation to disclose their inventions to the public, and thus tend to keep their inventions as trade secrets within the company; and b) independent inventors have virtually no motivation whatsoever to disclose their inventions to anyone, because of (justifiable) fears of ~~appropriation~~ expropriation.

Please amend the paragraph beginning on page 3, line 8, as shown:

For example, one who sings a touching version of “White Christmas” may receive copyright protection on his performance—not because he invented the concept of singing about Christmas—not because he wrote the lyrics to the song—but because his particular

vocal expression of it is original. Further, a woman who writes and performs a love song may receive copyright protection on *both* the lyrics *and* her performance—not because she invented the concept of singing about love—but because her particular written expression of love, and her particular vocal expression of those written lyrics, are original. Finally, consider the man who invents an entirely new and nonobvious *type* of music or *method* of performing music. Clearly, copyright law cannot protect his invention. His only possible ~~resource~~ recourse—which, to date, has not been tapped for the field of artistic inventions, such as original movie plots and new types of artistic expression—is patent protection.

Please amend the paragraph beginning on page 4, line 6, as shown:

The fact that each particular expression (e.g., a movie) of a broad artistic invention (e.g., an original plot) is subject to copyright protection is not unique to artistic inventions. For example, the software code on a patented software-containing disk may be copyrighted. The defining criterion separating the subject matter of patents from copyrights is *not* whether the subject matter is related to art—see the amusing counterexample of U.S. Patent No. 6,213,778 to Cohen. Rather, the defining criterion is whether the subject matter is a broad concept practically applied or used (in which case a patent is appropriate), or a particular instance, embodiment, expression, or performance of the broad concept (in which case a copyright is appropriate).

Please add the following notice at the end of the specification on page 18:

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